

MONTANA LEGISLATIVE HISTORY

Chapter 363 19 73

Bill H 279 S _____ Original bill & history C

H. Committee on Labor and Employment Relations S. Committee on Labor and Employment Relations

Hearing Date(s) Feb 02 ☒ C

Feb 08 ☒ C

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Date Out Feb 08 ☒ C

Hearing Date(s) Feb 26 ☒ C

Mar 02 ☒ C

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Mar 02 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

February 7, 1973

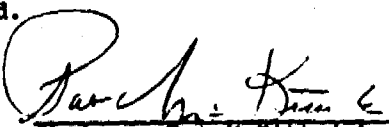
legislation. It is a matter of negotiation between the Association and the carrier. Mr. Ed Thomas, Union Pacific -- there is a national agreement that protects employees. Questions followed. Witnesses were excused.

HOUSE BILL # 279 -- SPONSOR: Rep. Hall was not able to be present to introduce this bill to the Committee, so in his place, Mr. Tony Softich, Labor Standards Division, presented testimony. Minor amendments were offered. It is a grave injustice to make small restaurants, etc., pay time and 1/2 for overtime of their employees. Jim Murry, AFI-CIO, -- this bill is setting a stronger standard for the Minimum Wage Act. It is not fair to have gratuities included in the minimum wage. This bill is fair to both employers and employees. No opponents. Questions followed.

HOUSE BILL # 326 -- SPONSOR: Rep. Kimble had some amendments which he went over with the Committee briefly. Bill Potts -- statement attached. We should upgrade Montana's safety laws. With the addition of crane operators licensing our safety record should be greatly improved. A quote from Power Magazine was read; copy enclosed. Causes of many crane accidents are because of incompetent or inexperienced operators. Exhibits from two contractors in favor of the bill were presented. Several written testimonies were submitted. Two resolutions, from the Union of Operating Engineers, and the AFL-CIO, were presented. OPPONENTS: Lloyd Pullum, Continental Oil Company -- statement attached. Chad Smith -- Wanted action on this bill to be deferred until SB 567 could be acted on in conjunction with it. The portion dealing with insurance boiler inspectors is unjustified. Gene Picotte, Holly Sugar Corp., -- Opposed to the boiler inspector part also. It will cause jurisdictional disputes among the unions. Harold Hanson, Hoerner Waldorf Corp., -- arose in opposition also. Bill Evans, Operating Engineers Union member, -- the law concerning hoisting engineers has worked very effectively. He is against a crane operator being licensed because in places it is not necessary. Questions followed. Witnesses were excused.

HOUSE BILL # 345 -- SPONSOR: Rep. Tom Towe -- This bill provides for a cost of living increase of 2% per year for retired policemen. The retirement fund comes from: (1) Employees salaries; (2) a mill levy; (3) insurance; and (4) interest on funds already accumulated. Elwin Ness, Retired Police Officer -- statement attached. OPPONENTS: Maurice Mulcahy, Montana Police Protective Assn., -- funding would be a problem at this time. Questions followed.

Meeting was adjourned.


Chairman Pat McKittrick


Secretary

February 8, 1973

LABOR AND EMPLOYMENT RELATIONS COMMITTEE PROCEEDINGS:

A meeting of the Labor and Employment Relations Committee was held on Thursday, February 8, 1973 on adjournment of the House in Room 428A with Chairman Pat McKittrick presiding. All members were present except Reps. Lombardi and Lee, who were excused, and Rep. Ellerd.

No bill hearings took place. The following action was taken:

HOUSE BILL # 279: Rep. Tierney moved that it DO PASS; Rep. Hodges seconded the motion. Discussion followed; motion carried unanimously.

HB # 444: Rep. Baeth moved that it DO PASS; Rep. Hodges seconded the motion. Discussion followed; motion carried. Those opposed: Reps. East, Turner and Bell.

HB # 344: Rep. Tierney moved that it DO PASS; Rep. Hodges seconded the motion. Discussion followed and the motion was then carried. Those opposed were Reps. East and Turner. McKittrick abstained.

HB # 345: Rep. Hodges moved that it be HELD OVER UNTIL 1974. Rep. Bell seconded the motion. Motion carried unanimously.

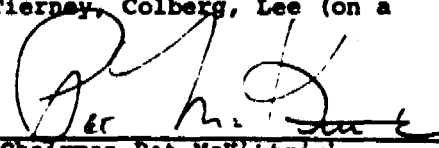
HB # 357: Rep. Baeth moved that it DO PASS. Motion seconded by Rep. Kimble; discussion followed. Motion carried; those opposed were Reps. East, Turner, Flynn and Bell.

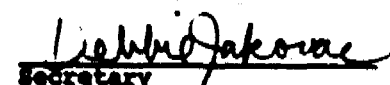
HB # 358: Rep. Bell moved that it DO PASS. Rep. Turman seconded the motion. Discussion followed. Motion carried with East voting no.

HB # 194: Subcommittee report: Both proponents and opponents of the bill were in agreement that this bill should not have any action taken on it until next session. Rep. Turner then moved and Rep. Colberg seconded that action be deferred on the bill. Motion carried unanimously.

HB # 488: Rep. Turman moved that it DO NOT PASS; seconded by Turner. Discussion followed. Motion failed. Those in favor of the motion were Reps. Colberg, Turman, East, Flynn, Bell and Turner (paired with Lee). Those opposed to the motion: Reps. Tierney, Bennetts, Baeth, Hodges, Kimble and McKittrick. Rep. Colberg then moved that it DO PASS. Seconded by Rep. Bell. Motion carried; those opposed were Reps. Turman, Turner (who paired with Lee), East, Bell, and Flynn. Rep. Hodges, Baeth, Bennetts, Tierney, Colberg, Lee (on a paired vote), Kimble and McKittrick.

Meeting was adjourned.


Chairman Pat McKittrick


Secretary

**MINUTES OF MEETING OF THE
LABOR AND EMPLOYMENT RELATIONS COMMITTEE
STATE SENATE**

A meeting of the Labor and Employment Relations Committee was called to order by Chairman Siderius, February 26, 1973 at 12:00 Noon, Room 402 of the State Capitol Building.

ROLL CALL: All members present, Senator Moore absent.

CONSIDERATION OF HOUSE BILL 176:

Representative Joe Brand appeared before the Committee in support of his bill.

Proponents of the bill:

Paul Bessler, individual
Ernie Post, Staff Representative, Montana State AFL-CIO

Opponents:

D.L. Siewert, Montana Chamber of Commerce (suggested "consecutive"
be inserted
Robert Holding, St. Regis Paper Company

CONSIDERATION OF HOUSE BILL 279:

Representative John Hall appeared before the Committee in support of House Bill 279:

Proponents:

Tony Softich, Labor Standards Division of the Department of Labor
and Industry
Ernie Post, Staff Representative, Montana State AFL-CIO

Opponents: Suggested amendments

John Cadby, Montana Auto Dealer's Association
Avis Ann Tobin, Montana Hardware and Implement Association
A. W. Scribner, Montana Auto Dealer's Association

Representative Hall closed his statement before the Committee.
Discussion period followed the testimony.

CONSIDERATION OF HOUSE BILL 214:

Representative Pat McKittrick appeared before the Committee in support of House Bill 214.

MINUTES OF MEETING OF THE
LABOR AND EMPLOYMENT RELATIONS COMMITTEE
STATE SENATE

The meeting of the Labor and Employment Relations Committee was called to order by Chairman Siderius, March 2, 1973, at 12:00 noon, Room 402 of the State Capitol Building.

ROLL CALL: A quorum was present and before the meeting was too far under way all members were present.

CONSIDERATION OF HOUSE BILL 445:

Senator Moore moved that the stricken material on line 5 of the title and line 14 be reinserted. Senator Jensen seconded the motion.

After a lengthy discussion Senator Moore withdrew his motion and Senator Jensen withdrew his second.

Senator Bennett moved that House Bill 445 Be Not Concurred In. Senator Himsel seconded the motion. Motion carried.

CONSIDERATION OF HOUSE BILL 279:

Avis Ann Tobin appeared before the committee to suggest an amendment on line 13, page 2. (copy attached)

Senator Bertsche moved to amend the bill on Page 4, line 8, by striking the comma and the underscored material. Senator McNamer seconded the motion. Motion carried.

(With this amendment, underscored material stricken Mrs. Tobin's amendment to exclude automobile, farm implement and airplane dealerships, line 13, page 2, would not be necessary.)

Senator Bertsche moved the Bill Be Concurred in As Amended. Senator Lowe seconded the motion. Motion carried.

CONSIDERATION OF HOUSE BILL 69:

Senator Bertsche suggested an amendment to House Bill 69 by striking all of the material beginning with the words "TO PROVIDE" on line 7 through the words "THIS LAW" on line 12 of the title of the bill and to strike Section 1, through line 20 on page 2. After some discussion by the committee it was decided that this would be repealing a section of the codes.

Senator Bennett made the motion to amend the title of the blue House bill by striking after the figure "1947" all of the material through the words "THIS LAW" on line 12, and further amend line 3, page 2, by reinserting the "twelve (12) calendar months" and striking the rest of line 3 and the underscored material on line 4, and further amend line 7, page 2 by striking "the date of employment" and inserting in lieu thereof the following "the first full pay period" and further amend on line 1, page 3, by adding the following "unless there is a collective bargaining agreement applicable". Bertsche seconded the motion. Motion carried unanimously.

outside this state which are in transit through this state and consigned to a warehouse or other storage facility, public or private, within this state, for storage in transit prior to shipment to a final destination outside the state, and which have acquired a taxable situs within the state.

Stocks of merchandise do not lose their status as freeport merchandise because while in the storage facility they are assembled, bound, joined, processed, disassembled, divided, cut, broken in bulk, relabeled or repackaged.

Any person, corporation, firm, partnership, association, or other group seeking to qualify its property for inclusion in this class shall make application to the state board of equalization in such manner or form as may be required by said board.

The state board of equalization shall establish standards, rules and regulations for the guidance of county assessors and assessing freeport merchandise.

Class Ten. All property not included in the nine (9) preceding classes."

Approved: March 19, 1973.

CHAPTER NO. 362

An Act Amending Section 75-7013, R.C.M. 1947, to Provide School Trustees an Alternative Method to Let School Bus Transportation Contracts, and Provide an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 75-7013, R.C.M. 1947, is amended to read as follows:

"75-7013. **Bid letting for contract bus and payments under any transportation contract.** Before any contract with a private party for the provision of school bus transportation is awarded, the trustees shall:

(1) secure bids by publishing at least three (3) calls for bids in a newspaper of the county that will give notice to the largest number of people of the district or in the official newspaper of the county during a period of twenty-one (21) days. The trustees shall let the contract to the lowest responsible bidder and the trustees shall have the right to reject any and all bids; or

(2) negotiate a new contract with the current school bus contractor provided the negotiated contract costs do not exceed by

more than five per cent (5%) per year the basic costs of the previous year's contract and provided the duration of the negotiated contract is no longer than the duration of the previous contract. Such a negotiated contract can be entered into only at a public meeting of the trustees at which meeting the patrons of the district may appear and be heard. Notice of the meeting must have been published in a newspaper of wide circulation within the district at least one week prior to the meeting.

The provisions of this section for awarding a contract for school bus transportation shall be subject to the provisions of section 75-6808.

The trustees shall not expend any moneys of the district for school bus transportation by a private party or for individual transportation unless:

(1) a contract for such transportation services has been completed; and

(2) such contracted services for school bus transportation by a private party have been actually furnished except that the failure to perform may be excused by the trustees for reasons not under the control of the contractor; or

(3) such contracted services for individual transportation have been actually furnished as conformed by the actual attendance of school by the eligible transportees and recorded on the school attendance records or, in the case of a supervised correspondence course or supervised home study, as confirmed by the trustees; except that the contracted services furnished one way on any school day shall be reimbursed at one-half ($\frac{1}{2}$) the daily contract amount."

Section 2. This act is effective on its passage and approval.

Approved: March 19, 1973.

CHAPTER NO. 363

An Act to Amend Sections 41-2303, 41-2306 and 41-2307, R.C.M. 1947, to Provide that Employees' Minimum Wage Shall be Exclusive of Gratuities; to Provide for Further Protection to Employees; and to Define the Application of the Fair Labor Standards Act; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 41-2303, R.C.M. 1947, is amended to read as follows:

"41-2303. **Compensation.** (a) Except as may otherwise be provided pursuant to this act, every employer shall pay to each of his employees wages at a rate not less than one dollar sixty cents (\$1.60) an hour, save and except for farm workers as herein defined and students employed at an amusement or recreational establishment that operates on a seasonal basis, who shall be compensated at not less than the following rates, *exclusive of gratuities*:

(1) one dollar twenty cents (\$1.20) an hour for the first year from the effective date of this act.

(2) one dollar forty cents (\$1.40) cents an hour for the second year from the effective date of this act.

(3) one dollar sixty cents (\$1.60) an hour for the third year from the effective date of this act and thereafter.

(b) No employer shall employ any of his employees for a work week longer than forty (40) hours, unless such employee receives compensation for his employment in excess of forty (40) hours in a work week at a rate of not less than one and one-half ($1\frac{1}{2}$) times the hourly wage rate at which he is employed. No overtime provision shall apply for farm workers. Employers of students at an amusement or recreational area that operates on a seasonal basis who furnish said students with board, lodging or other facilities shall not employ said students for a work week longer than forty-eight (48) hours, unless such students receive compensation for their employment in excess of forty-eight (48) hours in a work week at a rate of not less than one and one-half ($1\frac{1}{2}$) times the hourly wage rate at which they are employed.

(c) In the case of a farm worker employed for a part of a calendar year which includes periods requiring working hours in excess of eight hours per day and other seasonal periods requiring working hours substantially less than eight hours per day the employer may pay the worker at a fixed rate of compensation during the term of employment. The employer may elect to: (1) keep a record of the total number of hours worked by the worker during the part of the year during which the worker was employed by him. The total wages paid by such employer to such employee for that part of the year during which said employee was employed by him shall not be less than the applicable minimum wage rate multiplied by the total number of hours so worked, or (2) in lieu of the minimum wage set forth herein, pay the farm worker a wage as herein defined on a monthly basis. This monthly compensation shall constitute a minimum wage and shall not be less than the following rates:

(a) two hundred eighty dollars (\$280) a month for the first year from the effective date of this act,

(b) three hundred twenty-five dollars (\$325) a month for the second year from the effective date of this act,

(c) three hundred seventy-five dollars (\$375) a month for the third year from the effective date of this act."

Section 2. Section 41-2306, R.C.M. 1947, is amended to read as follows:

"41-2306. **Enforcement.** Enforcement of this act shall be treated as a wage claim action and shall be in accordance with sections 41-1301 through 41-1324, R.C.M. 1947, as amended. *The commissioner may enforce this act without the necessity of a wage assignment.*"

Section 3. Section 41-2307, R.C.M. 1947, is amended to read as follows:

"41-2307. **Provisions cumulative.** The provisions of this act shall be in addition to other provisions now provided by law for the payment and collection of wages and salaries, but shall not apply to employees covered by the Fair Labor Standards Act."

Section 4. This act shall become effective on January 1, 1974.

Approved: March 19, 1973.

CHAPTER NO. 364

An Act to Amend Section 26-104, R.C.M. 1947; Deleting Statutory Requirements as to Locations for Drawings for Special Elk Permits; and Providing That Drawings are to be Conducted as Prescribed by the Fish and Game Commission.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 26-104, R.C.M. 1947, is amended to read as follows:

"26-104. **Powers and duties of commission.** (1) The commission hereby created shall have supervision over all the wildlife, fish, game, and nongame birds, and waterfowl, and the game, and fur-bearing animals of the state, and shall possess all powers necessary to fulfill the duties prescribed by law with respect thereto, and to bring actions in the proper courts of this state for the enforcement of the fish and game laws of the state, and the